

House Bill 254 (AS PASSED HOUSE AND SENATE)

By: Representatives Peake of the 137th, Keen of the 179th, Lindsey of the 54th, Rice of the 51st, Scott of the 2nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to
2 juvenile proceedings, so as to provide that the Department of Human Resources shall attempt
3 to locate the adult relatives of a child removed from the custody of his or her parents; to
4 provide for notice; to provide that the court shall order the disclosure of adult relatives of
5 such child; to provide conditions for the placement of a child following a termination order;
6 to provide for findings of fact; to provide for related matters; to repeal conflicting laws; and
7 for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile
11 proceedings, is amended by revising paragraph (2) of subsection (a) of Code Section
12 15-11-55, relating to disposition of deprived child and policy favoring stable placements, as
13 follows:

14 "(2)(A) Subject to conditions and limitations as the court prescribes, transfer temporary
15 legal custody to any of the persons or entities described in this paragraph. Without
16 limiting the generality of the foregoing, such conditions and limitations shall include
17 a provision that the court shall approve or direct the retransfer of the physical custody
18 of the child back to the parents, guardian, or other custodian either upon the occurrence
19 of specified circumstances or in the discretion of the court. Any such retransfer of
20 physical custody may be made subject to such further conditions and limitations as the
21 court prescribes, including supervision for the protection of the child. The persons or
22 entities to whom or which temporary legal custody may be transferred shall include the
23 following:

24 ~~(A)~~(i) Any individual including a putative father who, after study by the probation
25 officer or other person or agency designated by the court, is found by the court to be
26 qualified to receive and care for the child;

~~(B)~~(ii) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child;

~~(C)~~(iii) Any public agency authorized by law to receive and provide care for the child; provided, however, that for the purpose of this Code section, the term 'public agency' shall not include the Department of Juvenile Justice; or

~~(D)~~(iv) An individual in another state with or without supervision by an appropriate officer under Code Section 15-11-89.

(B) Except for dispositions pursuant to paragraph (1) of subsection (a) of Code Section 15-11-66 and Code Section 15-11-67, ~~before transferring temporary legal custody in an order of disposition under this paragraph a reasonably diligent search for within 30 days after the removal of a child from the custody of the parent or parents of the child, the department shall exercise due diligence to identify a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child shall be conducted by the court and the Department of Human Resources. Such search shall be completed within 90 days from the date on which the child was removed from the home, the.~~ All identified adult relatives of the child, subject to exceptions due to family or domestic violence, shall be provided with notice:

(i) Specifying that the child has been or is being removed from parental custody;

(ii) Explaining the options the relative has to participate in the care and placement of the child and any options that may be lost by failing to respond to the notice;

(iii) Describing the process for becoming an approved foster family home and the additional services and supports available for children placed in approved foster homes; and

(iv) Describing any financial assistance for which the relative may be eligible.

(C) The results of such search and notification shall be documented in writing and filed with the court ~~at~~ by the time of the first review. During such ~~90~~ 30 day period, the court may order that the child ~~may~~ be placed in the temporary legal custody of the Department of Human Resources or any other appropriate entity or person.

(D) The court shall order in its preliminary disposition that the parent or other legal guardian of the child shall provide within ten days the names and addresses of all relatives and other persons who might be considered as possible placements for the child. The parties shall have an ongoing duty to supplement this information during the course of the case at each judicial review or citizen panel review. The court shall include in all published summons a notice that this information must be provided.

(E) The Council of Juvenile Court Judges shall be authorized to create uniform rules and forms to implement the provisions of this paragraph; or"

SECTION 2.

Said chapter is further amended by revising Code Section 15-11-103, relating to placement of child following termination order, custodial authority, and review of placement, as follows:

"15-11-103.

~~(a)(1) If, upon the entering of an order terminating the parental rights of a parent, there is no parent having parental rights, the court shall first attempt to place the child with a person related to the child by blood or marriage or with a member of the child's extended family if such a person is willing and, after study by the probation officer or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child, if the court determines such placement is the most appropriate for and in the best interest of the child. A placement effected under this paragraph shall be conditioned upon the family member who is given permanent custody or who is granted an adoption of the child agreeing to abide by the terms and conditions of the order of the court.~~

~~(2) If no placement of the child is effected under paragraph (1) of this subsection, the court may commit the child to the custody of the Department of Human Resources or to a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption, if the court determines such placement is the most appropriate for and in the best interest of the child.~~

~~(3) If no placement of the child is effected under paragraph (1) or (2) of this subsection, the court may commit the child to a suitable individual on the condition that the person becomes the guardian of the person of the child pursuant to the court's authority under Code Section 15-11-30.1, if the court determines such placement is the most appropriate for and in the best interest of the child.~~

~~(4) If no placement of the child is effected under paragraph (1), (2), or (3) of this subsection, the court may commit the child to the custody of the Department of Human Resources or to a licensed child-placing agency willing to accept custody for the purpose of placing the child in a foster home, if the court determines such placement is the most appropriate for and in the best interest of the child.~~

~~(5) If no placement of the child is effected under paragraph (1), (2), (3), or (4) of this subsection, the court may commit the child to the custody of an agency or organization authorized by law to receive and provide care for children which is operated in a manner that provides such care, guidance, and control as would be provided in a family home as defined in the court's order, if the court determines that such placement is the most appropriate for and in the best interest of the child.~~

~~(6) If no placement of the child is effected under paragraph (1), (2), (3), (4), or (5) of this subsection, the court may take other suitable measures for the care and welfare of the~~

child. Upon the entering of an order terminating the parental rights of a parent, a placement may be made only if the court finds that such placement is in the best interest of the child and in accordance with the child's court approved permanency plan created pursuant to Code Section 15-11-58. In determining which placement is in the child's best interest, the court shall enter findings of fact reflecting its consideration of the following:

(1) The child's need for a placement that offers the greatest degree of legal permanence and security;

(2) The least disruptive placement alternative for the child;

(3) The child's sense of attachment and need for continuity of relationships; and

(4) Any other factors the court deems relevant to its determination.

(b) A placement effected under the provisions of this Code section shall be conditional upon the person who is given permanent custody or who is granted an adoption of the child agreeing to abide by the terms and conditions of the order of the court. ~~A placement may be made under the terms of this Code section only if the court finds that such placement is in the best interest of the child.~~

(c) The court shall transmit a copy of every final order terminating the parental rights of a parent to the Office of Adoptions of the Department of Human Resources within 15 days of the filing of such order.

(d) The custodian has authority to consent to the adoption of the child, the child's marriage, the child's enlistment in the armed forces of the United States, and surgical and other medical treatment for the child.

(e) In those cases in which the court has placed the child pursuant to a permanency plan of adoption, ~~Except in those cases where the child was placed pursuant to paragraph (3) or (5) of subsection (a) of this Code section,~~ if a petition seeking the adoption of the child is not filed within six months after the date of the disposition order, the court shall then, and at least every six months thereafter as long as the child remains unadopted, review the circumstances of the child to determine what efforts have been made to assure that the child will be adopted. The court may then enter such orders as it deems necessary to further the adoption, including but not limited to another placement. ~~In those cases where the child was placed with a guardian of the child's person pursuant to paragraph (3) of subsection (a) of this Code section, the guardian shall report to the court in the same manner and at the same frequency as is required for guardians of the person of minors appointed by the judge of the probate court. In those cases where the child was placed pursuant to paragraph (5) of subsection (a) of this Code section parental rights to the child were terminated without the designation of a permanent guardian or adoptive family,~~ the court shall, at least every six months thereafter as long as the child remains subject to the jurisdiction of the court,

136 review the circumstances of the child to determine that placement in the family home-like
137 setting continues to be in the child's best ~~interests~~ interest."

138 **SECTION 3.**

139 All laws and parts of laws in conflict with this Act are repealed.